

Senate File 387 - Introduced

SENATE FILE 387
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 1092)

A BILL FOR

1 An Act relating to a city's authority to issue debt, including
2 authorization to use city reserve funds as a loan payable
3 from the debt service fund for certain general obligation
4 bond projects.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 384.4, subsection 1, Code 2013, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *f.* Payments of principal and interest on
4 loans entered into pursuant to section 384.24B and authorized
5 for repayment by the council from the debt service fund.

6 Sec. 2. NEW SECTION. **384.24B General obligation loans**
7 **funded by the city.**

8 1. A city may authorize a loan, as defined in this section,
9 to borrow money for any public purpose in accordance with and
10 subject to the provisions of this section.

11 2. *a.* For purposes of this section, "*loan*" means the
12 sum of the transfers from the surplus of one or more reserve
13 accounts or funds of the city which transfers are authorized
14 for the purpose specified in the loan authorization document.
15 A transfer from a reserve account or fund for the purposes of
16 this section shall not cause the balance of reserves in such
17 account or fund at the close of the fiscal year following the
18 fiscal year in which the transfer is made to fall below any
19 minimum balance prescribed by law for such account or fund.

20 *b.* A loan to finance a general obligation bond project
21 under this section shall not result in a user fee, rate, or
22 property tax increase to support the annual operations of the
23 account or fund from which the loan is made, as a result of
24 the unavailability of the surplus funds. For the purposes
25 of this section, "*surplus*" means the cash balance available
26 in any account or fund from which a loan will be made under
27 this section, calculated in accordance with generally accepted
28 accounting principles, which exceeds the amount of expenses or
29 disbursements made from the account or fund in the previous
30 three months, plus the amount of transfers, payments, or
31 disbursements required in the following three months.

32 3. *a.* A loan entered into by a city pursuant to this
33 section may contain provisions similar to those found in loan
34 agreements between private parties, including but not limited
35 to the issuance of notes to evidence its obligations. The

1 terms of each loan shall require repayment of the loan within
2 ninety days to the extent necessary to prevent a user fee,
3 rate, or property tax increase which raises the user fees,
4 rates, or property taxes payable into the account or fund from
5 which the loan is made above the level in effect at the time a
6 loan under this section is authorized.

7 *b.* A loan authorized pursuant to this section shall
8 constitute an indebtedness within the meaning of any statutory
9 debt limitation. The full or partial refunding of any
10 loan under this section shall be authorized as an essential
11 corporate purpose pursuant to section 384.24, subsection 3,
12 paragraph "f".

13 4. A loan made pursuant to this section is payable from the
14 debt service fund of the city. The governing body shall follow
15 the same authorization procedures required for the issuance
16 of general obligation bonds issued for the same purpose to
17 authorize a loan made payable from the debt service fund.
18 Upon approval of a loan, the loan shall be accounted for and
19 disclosed annually on the city's annual financial report filed
20 with the auditor of state pursuant to section 384.22.

21 5. A loan made pursuant to this section shall include
22 provisions establishing an interest rate on the loan that
23 shall be set between fifty percent and one hundred percent of
24 the average interest rate reported by a municipal bond sale
25 reporting service on the day that the loan is authorized.

26 6. Repayments of principal and interest shall be paid to
27 the reserve fund or account from which all or a portion of the
28 funds were advanced for the loan in the proportion that the
29 amount of the advance from the fund or account bears to the
30 entire amount of the loan.

31 7. The limitation in section 346.24 does not apply to a
32 transfer made pursuant to this section or to a loan authorized
33 pursuant to this section.

34 8. A loan made pursuant to this section shall not include
35 any transfers or obligations from the reserve fund or account

1 of a city utility or of a combined city utility.

2 9. The powers granted under this section shall not be
3 construed as a limitation of the existing powers of a city.

4 Sec. 3. Section 384.25, Code 2013, is amended to read as
5 follows:

6 **384.25 General obligation bonds or loans for essential**
7 **purposes.**

8 1. A city which proposes to carry out any essential
9 corporate purpose within or without its corporate limits, and
10 to contract indebtedness and issue general obligation bonds or
11 authorize a loan described in section 384.24B, to provide funds
12 to pay all or any part of the cost of a project must do so in
13 accordance with the provisions of this division.

14 2. Before the council may institute proceedings for the
15 issuance of bonds or authorization of a loan for an essential
16 corporate purpose, a notice of the proposed action, including
17 a statement of the amount and purposes of the bonds or loan,
18 and the time and place of the meeting at which the council
19 proposes to take action for the issuance of the bonds or
20 authorization of the loan, must be published as provided in
21 section 362.3. At the meeting, the council shall receive oral
22 or written objections from any resident or property owner
23 of the city. After all objections have been received and
24 considered, the council may, at that meeting or any adjournment
25 thereof, take additional action for the issuance of the bonds
26 or authorization of the loan or abandon the proposal to issue
27 the bonds or authorize the loan. Any resident or property
28 owner of the city may appeal the decision of the council to
29 take additional action to the district court of the county in
30 which any part of the city is located, within fifteen days
31 after the additional action is taken, but the additional action
32 of the council is final and conclusive unless the court finds
33 that the council exceeded its authority. The provisions of
34 this subsection with respect to notice, hearing, and appeal,
35 are in lieu of the provisions contained in chapter 73A, or any

1 other law.

2 3. *a.* Notwithstanding subsection 2, a council may institute
3 proceedings for the issuance of bonds or the authorization of a
4 loan for an essential corporate purpose specified in section
5 384.24, subsection 3, paragraph "w" or "x", in an amount equal
6 to or greater than three million dollars by causing a notice
7 of the proposal to issue the bonds or authorize the loan,
8 including a statement of the amount and purpose of the bonds
9 or loan, together with the maximum rate of interest which the
10 bonds are to bear or which will be charged to the principal
11 balance of the loan, and the right to petition for an election,
12 to be published at least once in a newspaper of general
13 circulation within the city at least ten days prior to the
14 meeting at which it is proposed to take action for the issuance
15 of the bonds or the authorization of the loan.

16 *b.* If at any time before the date fixed for taking action
17 for the issuance of the bonds or the authorization of the
18 loan, a petition is filed with the clerk of the city signed
19 by eligible electors of the city equal in number to twenty
20 percent of the persons in the city who voted for the office of
21 president of the United States at the last preceding general
22 election that had such office on the ballot, asking that the
23 question of issuing the bonds or authorizing the loan be
24 submitted to the registered voters of the city, the council
25 shall either by resolution declare the proposal to issue the
26 bonds or authorize the loan to have been abandoned or shall
27 direct the county commissioner of elections to call a special
28 election upon the question of issuing the bonds or authorizing
29 the loan. Notice of the election and its conduct shall be in
30 the manner provided in section 384.26.

31 *c.* If a petition is not filed, or if a petition is filed and
32 the proposition of issuing the bonds or authorizing the loan
33 is approved at an election, the council may proceed with the
34 authorization and issuance of the bonds or authorization of the
35 loan.

1 Sec. 4. Section 384.26, subsections 1, 2, 4, and 5, Code
2 2013, are amended to read as follows:

3 1. A city which proposes to carry out any general corporate
4 purpose within or without its corporate limits, and to contract
5 indebtedness and issue general obligation bonds or authorize a
6 loan described in section 384.24B, to provide funds to pay all
7 or any part of the costs of a project, must do so in accordance
8 with the provisions of this division.

9 2. Before the council may institute proceedings for the
10 issuance of bonds or authorization of a loan for a general
11 corporate purpose, it shall call a special city election to
12 vote upon the question of issuing the bonds or authorizing the
13 loan. At the election the proposition must be submitted in one
14 of the following form forms, as applicable:

15 Shall the (insert the name of the city) issue
16 its bonds in an amount not exceeding the amount of \$.... for
17 the purpose of?

18 Shall the (insert the name of the city) authorize
19 a loan from its surplus funds in an amount not exceeding the
20 amount of \$.... for the purpose of?

21 4. The proposition of issuing general corporate purpose
22 bonds or authorizing a loan for a general corporate purpose
23 is not carried or adopted unless the vote in favor of the
24 proposition is equal to at least sixty percent of the total
25 vote cast for and against the proposition at the election.
26 If the proposition of issuing the general corporate purpose
27 bonds or authorizing a loan for a general corporate purpose is
28 approved by the voters, the city may proceed with the issuance
29 of the bonds or authorization of the loan.

30 5. a. Notwithstanding the provisions of subsection 2,
31 a council may, in lieu of calling an election, institute
32 proceedings for the issuance of bonds or authorization of a
33 loan for a general corporate purpose by causing a notice of the
34 proposal to issue the bonds or authorize the loan, including
35 a statement of the amount and purpose of the bonds or loan,

1 together with the maximum rate of interest which the bonds are
2 to bear or which the loan is to bear, and the right to petition
3 for an election, to be published at least once in a newspaper
4 of general circulation within the city at least ten days prior
5 to the meeting at which it is proposed to take action for the
6 issuance of the bonds or authorization of the loan subject to
7 the following limitations:

8 (1) In cities having a population of five thousand or less,
9 in an amount of not more than four hundred thousand dollars.

10 (2) In cities having a population of more than five thousand
11 and not more than seventy-five thousand, in an amount of not
12 more than seven hundred thousand dollars.

13 (3) In cities having a population in excess of seventy-five
14 thousand, in an amount of not more than one million dollars.

15 b. If at any time before the date fixed for taking action
16 for the issuance of the bonds or the authorization of the
17 loan, a petition is filed with the clerk of the city in the
18 manner provided by section 362.4, asking that the question
19 of issuing the bonds or authorizing the loan be submitted to
20 the registered voters of the city, the council shall either by
21 resolution declare the proposal to issue the bonds or authorize
22 the loan to have been abandoned or shall direct the county
23 commissioner of elections to call a special election upon the
24 question of issuing the bonds or authorizing the loan. Notice
25 of the election and its conduct shall be in the manner provided
26 in the preceding subsections of this section.

27 c. If no petition is filed, or if a petition is filed and
28 the proposition of issuing the bonds or authorizing the loan
29 is approved at an election, the council may proceed with the
30 authorization and issuance of the bonds or the authorization
31 of the loan.

32 Sec. 5. Section 384.33, Code 2013, is amended to read as
33 follows:

34 **384.33 Action.**

35 No action may be brought which questions the legality of

1 general obligation bonds, notes, or loans under this chapter or
 2 the power of the city to issue the bonds, notes or loans or the
 3 effectiveness of any proceedings relating to the authorization
 4 and issuance of the bonds, notes, or loans from and after sixty
 5 days from the time the bonds, notes or loans are ordered issued
 6 by the city.

7 EXPLANATION

8 This bill enacts new Code section 384.24B to allow a city
 9 to borrow surplus money from its reserve accounts or funds
 10 for certain public purposes. The bill requires that a city
 11 certify taxes to be levied for deposit in the debt service
 12 fund in the amount necessary to pay principal and interest on
 13 loans authorized under the bill. This bill defines "loan" and
 14 "surplus".

15 The bill requires that such loans not cause the balances
 16 of such reserve accounts or funds to fall below any minimum
 17 balance prescribed by law. The bill requires that such loans
 18 not result in a user fee, rate, or property tax increase as
 19 a result of unavailability of surplus funds. The terms of
 20 each loan shall require repayment of the loan within 90 days
 21 to the extent necessary to prevent a user fee rate or property
 22 tax increase. Such a loan shall be payable from the city debt
 23 service fund and shall constitute an indebtedness within the
 24 meaning of any statutory debt limitation.

25 The full or partial repayment of a loan entered into under
 26 the bill shall constitute an essential corporate purpose
 27 pursuant to Code section 384.24, subsection 3, paragraph "f".
 28 The bill provides that upon approval of such a loan that the
 29 loan shall be accounted for and disclosed annually on the
 30 city's annual financial report. The bill further provides
 31 that interest rates on such a loan be set between 50 and 100
 32 percent of the average interest rate reported by a municipal
 33 bond sale reporting service on the day the loan is authorized.
 34 The bill provides that such a loan not include any transfers or
 35 obligations from a reserve fund or account of a city utility or

1 combined city utility.

2 The bill requires that such authorization by a city council
3 follow substantially the same procedures for the issuance of
4 general obligation bonds for essential corporate purposes,
5 pursuant to Code section 384.25, or for general corporate
6 purposes, pursuant to Code section 384.26. The bill further
7 provides that no action may be brought against a city regarding
8 the legality, power to issue, or power to authorize notes or
9 loans under new Code section 384.24B at any time after 60 days
10 following issuance.